

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MATILDA BELOVIC, by her next friend,	:	
SUELLEN TOZZI; GENEVIEVE C.;	:	07 – CIV – 2876 (LAP)(KNF)
MADELAINE ANDREWS; MARY B.; and	:	
MAUREEN CURRAN, by her next friend,	:	ECF CASE
SARAH T. GILLMAN, individually, and on	:	
behalf of all others similarly situated,	:	PARTIES' JOINT
	:	RULE 26(f) REPORT
Plaintiffs,	:	
	:	
against	:	
	:	
ROBERT DOAR, as Commissioner of the New	:	
York City Human Resources Administration;	:	
GLADYS CARRION, as Commissioner of the	:	
New York State Office of Children & Family	:	
Services; DAVID HANSELL, as Acting	:	
Commissioner of the New York State Office of	:	
Temporary & Disability Assistance; and	:	
RICHARD F. DAINES, as Acting Commissioner	:	
of the New York State Department of Health,	:	
	:	
Defendants.	:	
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PROPOSED JOINT DISCOVERY PLAN AND ORDER

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Plaintiffs Matilda Belovic, by her next friend, Suellen Tozzi; Genevieve C.; Madelaine Andrews; Mary B.; and Maureen Curran, by her next friend, Sarah T. Gillman, individually, and on behalf of all others similarly situated (“Plaintiffs”) and Defendants Robert Doar, Commissioner of the New York City Human Resources Administration (“City Defendant”) and Gladys Carrion, Commissioner of the New York State Office of Children & Family Services; David Hansell, Commissioner of the New York State Office of Temporary & Disability Assistance; and Richard F. Daines, Commissioner of the New York State Department of Health (collectively known as “State Defendants”) hereby respectfully submit the following report to the Court.

1. **Initial Disclosures**

The parties have agreed that initial disclosures of Plaintiffs and City Defendant will be exchanged by email and served by U.S. Mail on or before August 28, 2007 and that initial disclosures of State Defendants will be delivered by email and served by U.S. Mail on or before September 5, 2007.

2. **Discovery Subjects**

Discovery may be conducted on all matters relevant to the subject matter of the action, and to the claims and defenses of the parties.

3. **Discovery Plan**

The parties propose to the Court the following discovery plan:

- a. Plaintiffs will serve their first set of document requests and interrogatories on City and State Defendants by email and U.S. Mail on or before September 14, 2007. City and State Defendants shall have 30 days from the date of service to submit their responses and objections.
- b. City and State Defendants will serve their first set of document requests and interrogatories on Plaintiffs by email and U.S. Mail on or before October 1, 2007. Plaintiffs shall have 30 days from the date of service to submit their responses and objections.
- c. Fact discovery will be concluded by March 31, 2008.
- d. The parties have discussed the following change to the limitations on the number of depositions of fact witnesses under Rules 30 and 31 of the Federal Rules of Civil Procedure:
 1. Plaintiffs propose that each party shall have no less than 150 hours of deposition testimony.
 2. City and State Defendants will consider some increase in the number of hours of deposition testimony, but believe that at this time a specific agreement addressing additional numbers of witnesses or time allotted is premature. Defendants suggest that the parties first exchange document discovery and then discuss specifically what deposition testimony each side believes is necessary before addressing the issue of whether or not additional hours for depositions will be necessary.

- e. Expert reports, if any, shall be produced by April 15, 2008. Expert rebuttal reports, if any, shall be produced by May 30, 2008.
- f. Expert discovery will close on June 30, 2008.

4. **Electronically Stored Information**

Plaintiffs propose that electronically stored information ("ESI") be produced in its native format because that is the form in which the ESI is ordinarily maintained, and because production in native format ensures that all metadata is preserved along with each document or file, and requires no conversion, processing or imaging of any kind by the producing party.

City and State Defendants believe that a decision about producing ESI in its native format is premature at this stage, as they are still identifying relevant ESI. Furthermore, Defendants believe that Plaintiffs have not articulated a legitimate reason for seeking ESI in its native format with respect to any specific document request.

The parties will continue to discuss the appropriate method of production of ESI.

5. **Method of Document Production**

Plaintiffs propose that all documents produced be scanned to 300dpi Group IV .tiff format, and all documents be provided with Optical Character Recognition ("OCR") text. Plaintiffs also propose that all documents shall be produced on CD/DVD or portable hard disk.

City Defendant proposes that once Plaintiffs serves City Defendant with their document requests, City Defendant will evaluate the cost of such a production and produce documents in a format that is most cost effective for City Defendant. State Defendants concur with the City Defendant's approach and would apply it with respect to State Defendants' production.

The parties will continue to discuss the appropriate method of document production.

6. **Settlement Discussions/Procedures**

The parties have discussed the possibility of settlement and have concluded that discovery is necessary before they are able to consider the possibility of settlement.

Dated: August 29, 2007

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SO ORDERED:

Hon. Loretta A. Preska
United States District Court Judge

Dated: New York, NY

_____, 2007